

DO

FR-4915-01-P

## SURFACE TRANSPORTATION BOARD

[Docket No. FD 36239]

## Delmarva Central Railroad Company—Modified Rail Certificate

On November 21, 2018, Delmarva Central Railroad Company (DCR), a Class III rail carrier,<sup>1</sup> filed a notice for a modified certificate of public convenience and necessity under 49 C.F.R. pt. 1150 subpart C—Modified Certificate of Public Convenience and Necessity, to operate over two lines (together, the Lines) owned by the Delaware Transit Corporation, an operating division of the Delaware Department of Transportation (the State). The first line is approximately 6.75 miles in length and is located between milepost 24.42 at Georgetown, Del., and milepost 31.17 at Harbeson, Del. (Lewes Running Track). The second line is approximately 4.92 miles in length and is located between milepost 0.00 at Ellendale, Del., and milepost 4.92 at Milton, Del. (Milton Industrial Track).<sup>2</sup>

DCR states that the Lewes Running Track previously was owned by a component of the Penn Central Transportation Company (PCTC) and abandoned pursuant to § 304

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<sup>1</sup> DCR operates approximately 177 miles of rail line on the Delmarva Peninsula in Delaware, Maryland, and Virginia. See Delmarva Cent. R.R.—Change in Operator Exemption—Cassatt Mgmt., LLC, FD 36196 (STB served June 4, 2018); Delmarva Cent. R.R.—Lease & Operation Exemption with Interchange Commitment—Norfolk S. Ry., FD 36071 (STB served Dec. 2, 2016).

<sup>2</sup> DCR states that outer extensions of the Lewes Running Track and the Milton Industrial Track that were previously served by prior operators pursuant to modified certificates are no longer active and are not included in its notice for a modified certificate.

of the Regional Rail Reorganization Act of 1973, 45 U.S.C. § 744. According to DCR, the Milton Industrial Track also was owned by PCTC but was transferred to Consolidated Rail Corporation (Conrail), which subsequently abandoned it as authorized in Conrail Abandonment Between Ellendale & Milton, Del., AB 167 (Sub-No. 188N) (ICC served Mar. 26, 1982).<sup>3</sup> DCR indicates that the State acquired the Lines after they were abandoned, and it contracted with Delaware Coast Line Railroad Company (DCLR) to operate them under a modified certificate of public convenience and necessity. See Del. Coast Line R.R.—Modified Rail Certificate, FD 30035 (ICC served Sept. 22, 1982). On November 13, 2018, DCLR filed notice, pursuant to 49 C.F.R. § 1150.24, of its intent to discontinue rail service over the Lines in Docket No. FD 30035.

On May 25, 2018, DCR and the State signed an operating agreement, which authorizes DCR to provide service on the Lines from January 1, 2019, to December 31, 2023, with one five-year renewal option. DCR's notice includes a copy of the operating agreement. (See Notice Ex. B.)

According to DCR, the sole interline connections for the Lines are with DCR, at Georgetown for the Lewes Running Track and at Ellendale for the Milton Industrial Track. DCR states that it intends to provide rail service on the Lines up to five days per week.

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<sup>3</sup> In its notice, DCR indicates that the Interstate Commerce Commission served the abandonment authorization on April 21, 1982 and August 4, 1982; however, it appears that abandonment authorization was first served on March 26, 1982.

The Lines qualify for a modified certificate of public convenience and necessity.

See Common Carrier Status of States, State Agencies & Instrumentalities & Political Subdivisions, FD 28990F (ICC served July 16, 1981); 49 C.F.R. § 1150.22.

DCR states that no subsidy is involved and there are no preconditions that shippers must meet to receive rail service and provides information regarding the nature and extent of its liability insurance coverage. See 49 C.F.R. § 1150.23(b)(4)-(5).

This notice will be served on the Association of American Railroads (Car Service Division), as agent for all railroads subscribing to the car-service and car-hire agreement, at 425 Third Street, S.W., Suite 1000, Washington, DC 20024; and on the American Short Line and Regional Railroad Association at 50 F Street, N.W., Suite 7020, Washington, DC 20001.

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: February 6, 2019.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.